

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION**

VIRTAMOVE, CORP.,	§	
Plaintiff,	§	Case No. 7:24-cv-00030-DC-DTG
v.		§
		§
AMAZON.COM, INC., AMAZON.COM	§	
SERVICES LLC., and AMAZON WEB	§	JURY TRIAL DEMANDED
SERVICES, INC.,	§	
Defendant.	§	
		§

ORDER SETTING ASIDE TRANSFER ORDER

Pursuant to Fed. R. Civ. P. 72, Plaintiff VirtaMove Corp. filed objections to Magistrate Judge Gilliland’s “Transfer Order” (Dkt. 87). After considering the full briefing, the Transfer Order is set aside and transfer is DENIED.

For the reasons stated in VirtaMove’s Objections (Dkt. 88), the Transfer Order erred in ordering transfer under § 1406 because the Amazon.com, Inc. and Amazon.com Services LLC defendants have been dismissed from this case. Dkt. 86. IT IS HEREBY ORDERED that the Motion for Transfer under § 1406 is MOOT.

For the reasons stated in VirtaMove’s Objections (Dkt. 88), the Transfer Order erred in its failure to apply Fifth Circuit law. Dkt. 86. This Court has previously noted the splits of law. *Motion Offense, LLC v. Google LLC*, No. 6:21-CV-00514-ADA, 2022 WL 5027730, at *4–13 (W.D. Tex. Oct. 4, 2022). A correct application of recent Fifth Circuit law should have required that the movant clearly demonstrate that its proposed witnesses will “actually materialize,” which the movant did not do; that the “rigid” 100-mile rule apply; that the court congestion factor not be discounted as speculative; and that local interest not consider research and development. Dkt. 88 (citing recent

Fifth Circuit cases). Had Fifth Circuit law been correctly applied, each of the factors would have been neutral or weighed against transfer.

IT IS HEREBY ORDERED that the Transfer Order (Dkt. 87) under § 1404 is set aside, and that transfer to the NDCA is DENIED. It is further ORDERED that the stay is lifted, and the Parties shall meet and confer to file a new proposed schedule for this case.

SIGNED this _____ day of _____, 2025.

ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE